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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/899,029      | 07/06/2001  | Gary P. Cote         |                     | 6055             |

7590                    07/01/2002

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[REDACTED] EXAMINER

BARTZ, CLIFFORD T

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 3683     |              |

DATE MAILED: 07/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

|   |                      |
|---|----------------------|
| Application No.<br>09/899,029   | Applicant(s)<br>COTE |
| Examiner<br>C. Bartz  | Art Unit<br>3613     |
|  |                      |

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on 9/20/01

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle* 835 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 1-45 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-36, 39-45 is/are rejected.

7)  Claim(s) 37, 38 is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

15)  Notice of References Cited (PTO-892)

18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16)  Notice of Draftsperson's Patent Drawing Review (PTO-848)

19)  Notice of Informal Patent Application (PTO-152)

17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4

20)  Other: \_\_\_\_\_

Part III DETAILED ACTION

*Claim Objections*

1. Claim(s) 10 is(are) objected to as depending from itself. FOR PURPOSES OF THIS ACTION ONLY, IT HAS BEEN ASSUMED THAT CLAIM 10 WAS INTENDED TO BE DEPENDENT OF PARENT CLAIM 1. Applicant must make a change in the dependency of claim 10 in any response to this Office Action.

*Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States.

Claim(s) 1, 2, 29, 30 is(are) rejected under 35 U.S.C.

§ 102(b) as being anticipated by Miyazaki.

Miyazaki discloses a drum brake, brake shoes in the fourth complete paragraph of col. 12.

3. Claim(s) 31 - 34 is(are) rejected under 35 U.S.C. § 102(b) as being anticipated by Krauer.

Krauer discloses a twist type handle, brake cable.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

4. Claim(s) 3 - 8, 16 - 18 is(are) rejected under 35 U.S.C.

5. § 103 as being unpatentable over Miyazaki.

Miyazaki discloses all the structure of the claimed device as detailed above: except for the particular variations recited in claims 3 - 8, 16 - 18. It would have been an obvious matter of design choice dependent on cost and equipment availability considerations to provide the brake of Miyazaki with steel, plastic materials, with sealing and mounting plates, et al in order to optimize the cost.

6. Claim(s) 19 - 23 is(are) rejected under 35 U.S.C. § 103 as being unpatentable over Miyazaki.

Miyazaki discloses all the structure of the claimed device as detailed above: except for the brake assembly comprising caliper brakes; and the particular variations recited in claims

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19 - 23. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize caliper brakes; since the examiner takes Official Notice that caliper brakes are known in the brake art and it would be within the level of ordinary skill in the art for a routineer to combine caliper brakes with Miyazaki as a design variation improving the cost and capability of Miyazaki. It would have been a further obvious matter of design choice dependent on cost and equipment availability considerations to provide the brake of Miyazaki with brake pads, control cables, twist type handles.

7. Claim(s) 24 - 26 is(are) rejected under 35 U.S.C. § 103 as being unpatentable over Miyazaki.

Miyazaki discloses all the structure of the claimed device as detailed above: except for the brake assembly comprising disc brakes; and the particular variations recited in claims 25, 26. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize disc brakes; since the examiner takes Official Notice that disc brakes are known in the brake art and it would be within the level of ordinary skill in the art for a routineer to combine disc brakes with Miyazaki as a design variation improving the cost and capability of Miyazaki.

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It would have been a further obvious matter of design choice dependent on cost and equipment availability considerations to provide the brake of Miyazaki with a frame mounted caliper, twist type handles.

8. Claim(s) 27, 28 is(are) rejected under 35 U.S.C. § 103 as being unpatentable over Miyazaki.

Miyazaki discloses all the structure of the claimed device as detailed above: except for the wheelbarrow utilizing two wheels; and a drum brake in the center as recited in claim 28. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize two wheels; since the examiner takes Official Notice that two wheel wheelbarrows are known in the brake art and it would be within the level of ordinary skill in the art for a routineer to utilize two wheels in Miyazaki, as a design variation improving the cost or capability of Miyazaki. It would have been a further obvious matter of design choice dependent on cost and utility considerations to provide the wheelbarrow of Miyazaki with a drum brake mounted in the center of the axle.

9. Claim(s) 35, 36 is(are) rejected under 35 U.S.C. § 103 as being unpatentable over Krauer.

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Krauer discloses all the structure of the claimed device as detailed above: except for a clipper.

It would have been an obvious matter of design choice dependent on utility considerations to provide Krauer with a clipper in order to lock the handle at desired positions.

10. Claim(s) 39 - 42 is(are) rejected under 35 U.S.C. § 103 as being unpatentable over Krauer in view of Miyazaki.

Krauer in view of Miyazaki discloses all the structure of the claimed device as detailed above: except for a drum brake and associated structures. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize drum brakes; since the examiner takes Official Notice that drum brakes are known in the brake art and it would be within the level of ordinary skill in the art for a routineer to combine such drum brakes with Krauer in view of Miyazaki as a design variation improving the cost and capability of Krauer in view of Miyazaki. It would have been a further obvious matter of design choice dependent on cost and equipment availability considerations to provide the brake of Krauer in view of Miyazaki with a brake arm, internal drum, backing plate.

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11. Claim(s) 43, 44 is(are) rejected under 35 U.S.C. § 103 as being unpatentable over Krauer in view of Miyazaki.

Krauer in view of Miyazaki discloses all the structure of the claimed device as detailed above: except for a frame mounted caliper with a wheel disc. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize a frame mounted caliper with a wheel disc; since the examiner takes Official Notice that a frame mounted caliper with a wheel disc are known in the brake art and it would be within the level of ordinary skill in the art for a routineer to combine such a frame mounted caliper having a wheel disc, with Krauer in view of Miyazaki as a design variation improving the cost and capability of Krauer in view of Miyazaki.

12. Claim(s) 45 is(are) rejected under 35 U.S.C. § 103 as being unpatentable over Krauer in view of Miyazaki.

Krauer in view of Miyazaki discloses all the structure of the claimed device as detailed above: except for the claimed apparatus utilized in a wheelbarrow. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the claimed apparatus in a wheelbarrow; since the examiner takes Official Notice that wheelbarrows are known in the brake art and it would be within the level of ordinary

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skill in the art for a routineer to utilize the structure of Krauer in view of Miyazaki in a wheelbarrow, as a design variation improving the cost or utility of Krauer in view of Miyazaki.

13. Claim(s) 9 - 15 is(are) rejected under 35 U.S.C. § 103 as being unpatentable over Miyazaki in view of Krauer.

Miyazaki discloses all the structure of the claimed device as detailed above; except for a twist-type control handle. Krauer is relied upon merely to show that it is known in the art to provide a twist-type control handle ( third complete paragraph in column 2 ). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the wheelbarrow of Miyazaki with a twist-type control handle like that of Krauer in order to activate braking without losing contact with the handle.

#### **Allowable Subject Matter**

14. Claim(s) 37, 38 would be considered allowable if rewritten to correct any objections; or overcome any applicable rejections, under 35 USC 112; and to include all the limitations of the base claim and any intervening claims.

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**Conclusion**

15. In Canfield, note 80.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Bartz whose telephone number is (703)308 - 2564. The examiner can normally be reached on Mondays thru Fridays from 8:30 am to 3:30 pm. ( clifford.bartz@uspto.gov ) [ Fax - (703)308 - 3519 ]

If attempts to reach the examiner by telephone are unsuccessful; a message may be left at the Group Receptionist, whose telephone number is ( 703 ) 308 - 1113 ).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavendar, can be reached on ( 703 ) 308 - 3421.

Any further inquiry of a general nature or relating to the status of this application may also be directed to the Group Receptionist, whose telephone number is ( 703 ) 308 - 1113.

Clifford T. Bartz C TB  
Examiner 6/18/02  
Art Unit 3613 - June 17, 2002

Summary:

|                 |                   |
|-----------------|-------------------|
| Total claims    | = 1 - 45          |
| Rejected claims | = 1 - 36, 39 - 45 |
| Objected claims | = 37, 38          |

File Reference - C:\ZPTO\NFOL~7\899A029.1 ( Actionwriter )

M.C.G.  
6.26.02

MATTHEW C. GRAHAM  
PRIMARY EXAMINER  
GROUP 310